

REMARKS

Reconsideration of the application in view of the following remarks is requested. Claims 1-20 are in this application. Claims 1-2 and 11-18 have been amended. Claims 19-20 have been added to additionally claim the present invention. Further, in addition to the amendments discussed below, claim 1 was amended to alternately recite the invention, and claims 11-18 were amended to broaden the claims.

The Examiner provisionally rejected claims 1-2, 4, 6-7, 11-12, 14-15, and 18 on the ground of nonstatutory obviousness-type double patenting over copending Application No. 10/426,109, which issued as U.S. Patent No. 7,274,712 on September 25, 2007. A terminal disclaimer is attached in the Appendix.

The Examiner rejected claims 1, 3, 6, 11, and 13 under 35 U.S.C. §102(e) as being anticipated by Brooks (U.S. Patent Publication No. 2003/0056217). For the reasons set forth below, applicant respectfully traverses this rejection.

Claim 1 recites:

"a first register;

"a second register; and

"a state machine connected to the first and second registers to determine a maximum number of channels that can be received by an interface connected to the system, store the maximum number in the first register, determine a current number of different channels that are being sent to the interface, store the current number in the second register, and detect a new channel message from a set top box connected to the interface, the new channel message to indicate a new subscribed-to channel."

In rejecting the claims, the Examiner appeared to point to a row in column (table) 306 shown in FIG. 4 of Brooks as constituting the second register required by claim 1, and modulator bank 106 shown in FIG. 1 of Brooks as constituting the

interface required by claim 1. In addition, the Examiner pointed to paragraph 0028 of Brooks as teaching that if the entry for the first row (313) of column (table) 306 is equal to 0, then channel 1 is not being sent to interface/modulator bank 106. Further, when channel 1 is subsequently selected by a set-top terminal, the entry for the first row (313) of column (table) 306 is incremented from 0 to 1. The Examiner then argued that incrementing the entry from 0 to 1 teaches that a current number of transmitted channels has been determined and stored.

Column (table) 306, however, can not be read to be the second register required by claim 1 because column (table) 306 does not store a value that represents the current number of different channels that are sent to interface/modulator bank 106. With reference to the FIG. 4 example, Brooks teaches that three different channels are sent to interface/modulator bank 106. In other words, channel 2 is sent to 12 set-top terminals, channel 3 is sent to 1 set-top terminal, and channel K is sent to 5 set-top terminals. Thus, in the FIG. 4 example of Brooks, the current number of different channels that are sent to interface/modulator bank 106 is equal to three. Applicant, however, has been unable to find any discussion in Brooks that teaches or suggests that a value of three, which represents the current number, is determined or stored in column (table) 306.

Further, the value held in a row of column (table) 306 is incremented or decremented to indicate the total number of set-top terminals that are currently receiving the single channel that is associated with the row. In other words, if the entry in the second row of column (table) 306 is incremented from 12 to 13, the increase merely means that 13 set-top terminals are now receiving channel 2 instead of the previous 12 set-top terminals. The increment does not mean that 13 different channels are sent to interface/modulator bank 106.

As a result, incrementing an entry in a row of column (table) 306, such as incrementing the entry in the first row of column (table) 306 from 0 to 1 or incrementing the entry in the second row from 12 to 13, does not measure the current number of different channels that are sent to interface/modulator bank 106. Instead, the increase indicates nothing more than the current number of set-top terminals that are receiving a particular channel.

Thus, since Brooks fails to teach or suggest that any entry in column (table) 306 represents the current number of different channels that are sent to interface/modulator bank 106, claim 1 is not anticipated by Brooks. In addition, since claims 3 and 6 depend from claim 1, claims 3 and 6 are not anticipated by Brooks for the same reason that claim 1 is not anticipated by Brooks.

Claim 11 recites:

“determining a maximum number of channels that can be received by the interface, and storing the maximum number in the first register;

“determining a current number of different channels that are being sent to the interface, and storing the current number in the second register; and

“detecting a new channel message from a set top box connected to the interface, the new channel message indicating a new subscribed-to channel.”

As noted above, the Brooks reference fails to teach or suggest that any entry in column (table) 306 represents the current number of different channels that are sent to interface/modulator bank 106. As a result, claim 11 is not anticipated by Brooks. In addition, since claim 13 depends from claim 11, claim 13 is not anticipated by Brooks for the same reason that claim 11 is not anticipated by Brooks.

With respect to new claim 19, this claim recites that:

“the maximum number of channels represents a maximum number of channels that can be simultaneously received by the interface.”

New claim 20 recites similar limitations.

In rejecting the claims, the Examiner appeared to point to the last row in column (table) 304 shown in FIG. 4 of Brooks as constituting the first register required by the claims. Specifically, the Examiner pointed to column (table) 304 as listing “each program channel X selectable by a subscriber through a set-top terminal, which ranges from 1 to K.” (See also paragraph 0025 of Brooks.) The Examiner then appeared to argue that the value K represents the maximum number of channels that can be received by interface/modulator bank 106.

Column (table) 304, however, can not be read to be the first register required by claims 19-20 because column (table) 304 does not store a value that represents the maximum number of channels that can be simultaneously received by interface/modulator bank 106. For example, if 50 channels are available and listed in column (table) 304 as 1, 2, 3, . . . 49, and 50, then the value K (50) represents the maximum number of channels that can be received by interface/modulator bank 106.

Applicant, however, has been unable to find any discussion in Brooks that teaches or suggests that the value K (50) also represents the maximum number of channels that can be simultaneously received by interface/modulator bank 106. In other words, none of the entries in column (table) 304 represent the maximum number of channels that can be simultaneously received by interface/modulator bank 106. Thus, since Brooks fails to teach or suggest that the entries in column (table) 304 represent the maximum number of channels that can be simultaneously received

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by interface/modulator bank 106, claims 19-20 are not anticipated by Brooks for this further reason.

The Examiner objected to claims 2, 4-5, 7-10, 12, and 14-18, but indicated that these claims would be allowable if amended to be in independent form including all of the limitations of the base claim and any intervening claims. Claim 2 has been amended to be in independent form, but recites the limitations of the base claim using alternate claim language. Claims 4-5 and 7-10 have not been amended as these claims depend from claim 2. Claim 12 has been amended to be in independent form, and is believed to include all of the limitations of the base claim. In addition, claims 14-18 have not been amended as these claims depend from claim 12.

Thus, for the foregoing reasons, it is submitted that all of the claims are in a condition for allowance. Therefore, the Examiner's early re-examination and reconsideration are respectively requested.

Respectfully submitted,

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By: Mark C. Pickering

Mark C. Pickering
Registration No. 36,239
Attorney for Assignee

P.O. Box 300
Petaluma, CA 94953-0300
Telephone: (707) 762-5500
Facsimile: (707) 762-5504
Customer No.: 56929

AMENDMENT IN RESPONSE TO
OFFICIAL ACTION MAILED AUGUST 30, 2007

Atty. Docket No. 200-65700
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APPENDIX

AMENDMENT IN RESPONSE TO
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Atty. Docket No. 200-65700
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